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# JPRS Report
## Supplement



# East Europe

## Recent Legislation
### Romania's Law on Operation of Business Companies

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*JPRS-EER-91-179-S* *12 December 1991*

CONTENTS

# Law on Operation of Business Companies

*92BA0141A Bucharest MONITORUL OFICIAL in Romanian 17 Nov 90 pp 1-23*

["Text" of Law No. 31 on business companies]

[Text] The Romanian Parliament passed the present law.

## TITLE I

## General Provisions

### Article 1

Individuals [persoanele fizice] and juridical persons may associate and form business companies for the purpose of engaging in commercial operations in compliance with the provisions of the present law.

Business associations whose home office is in Romania constitute Romanian legal entities.

### Article 2

Business associations will be established in one of the following forms:

a) General partnership [societate in nume collectiv], whose registered liabilities [obligatii sociale] are guaranteed by the registered assets [patrimoniu social] and the unlimited joint liability of all the partners;

b) Mixed liability partnership, whose registered liabilities are guaranteed by the registered assets and unlimited joint liability of the active partners; the silent partners are liable only to the extent of their investment;

c) Mixed liability joint-stock company, whose registered capital is divided into shares and whose registered liabilities are guaranteed by the registered assets and the unlimited joint liability of the active partners; the silent partners are liable only for the amount of their shares;

d) Joint-stock company, whose registered liabilities are guaranteed by the registered assets; the shareholders are liable only for payment of their shares;

e) Limited liability company, whose registered liabilities are guaranteed by the registered assets; the associates are obligated only for payment of the registered shares.

## TITLE II

## Company Incorporation

## Chapter I

## General and Mixed Liability Partnerships

### Article 3

General or mixed liability partnerships are formed by a legalized deed of partnership. The deed must feature:

—First and last name or trade name of the partners, their residence or headquarters, and citizenship or nationality;

—The form, name, and head office of the company;

—Type of the company;

—Registered capital subscribed and paid; a mention of each partner's contribution in cash or other assets; value of the assets and method of appraisal, and the date on which the subscribed registered capital will be paid in full;

—The associates who manage and represent the company and the limit of their powers;

—Each partner's share of the profits and losses;

—Places in the country or abroad where the company will open branches or offices;

—Duration of the company;

—Method of dissolving and liquidating the company.

### Article 4

Within 15 days of the date of the legal deed the managers or any of the partners will register the partnership deed with the court in whose jurisdiction the company will have its head office.

At the time of registration the judge will verify that the conditions listed under Article 3 are met, after which he will order the deed entered in the commercial register and at the fiscal office in charge of the area where the company is located, and its publication in MONITORUL OFICIAL.

The company becomes a legal entity on the day of its registration in the commercial register. The deed will be registered only upon production of proof that an application was filed to have it published in MONITORUL OFICIAL.

### Article 5

The company representatives are obligated to file their signatures with the commercial registry within 15 days of the registartion of the company if they were named in the deed of partnership; those elected in the course of the operation of the company will do so within 15 days of being elected.

### Article 6

If the company opens a branch or subsidiary outside of its headquarters county, the managers are obligated to apply to have it entered in the commercial register of the county where it will operate before the branch or subsidiary is opened for business.

The branch or subsidiary representatives will deposit their signatures in accordance with Article 5.

**Article 7**

If the publication formalities stipulated in Article 4 have not been met, any of the partners is entitled to carry them out or, if the company has not been registered, to dissolve and liquidate it.

Failure to comply with the formalities stipulated in Article 4 may not be blamed by the partners on third parties.

The partners, and all those who prior to the legal incorporation of the company worked in its name, bear direct, unlimited, and joint liability for the company transactions in which they participated.

## Chapter II

## Limited and Mixed Liability Public Companies

**Article 8**

Limited and mixed-liability public companies will be formed by a deed of incorporation and statute.

The deed of incorporation will be signed by all the associates or by the founding members in the case of public subscription.

The company's capital may not be less than $1 million and the number of shareholders may not be less than five.

**Article 9**

The deed of incorporation and the statute of a joint-stock or mixed liability public company will be legally drawn and will feature:

—First and last name or trade name of shareholders, residence or head office, and citizenship or nationality;

—Name and head office of the company and of its branches or subsidiaries;

—Form and purpuse of the company;

—Subscsribed and paid registered capital. At the time of incorporation the paid registered capital may not be less than 30 percent of the subscribed capital, unless otherwise envisaged by law;

—Value of assets brought into the company as a contribution in kind, method of appraisal, and number of shares assigned in exchange;

—Number and nominal value of shares, whether they are registered or bearer, and their number by categories;

—The number, first and last name, and citizenship of the executive officers, the security they are obligated to deposit, their powers, and any special managerial or representative powers awarded to some of them; in the case of mixed liability joint-stock companies, first and last name or trade name, residence or headquarters, and citizenship or nationality of the active partners, and which among them are in charge of managing and representing the company;

—The conditions for holding valid general meeting deliberations and the manner of discharging voting rights;

—The first and last names and citizenship of the auditors;

—Duration of the company;

—Method of profit distribution;

—Silent partners' shares in mixed-liability joint-stock companies;

—Transactions carried out by shareholders on behalf of the company being incorporated and which the company will assume, and the sums of money owed for such transactions.

**Article 10**

When the company is incorporated by public subscription, the founders will prepare an issue prospectus featuring the information stipulated in Article 9, with the exception of the data regarding managers and auditors, and will set the date on which the subscription will be closed.

A legalized copy of the issue prospectus, signed by the founders, will be filed prior to publication with the commercial registry in the county in which the company will have its headquarters.

The judge of the registry area court will authorize the publication of the issue prospectus after verifying compliance with the conditions specified in Paragraphs 1 and 2.

**Article 11**

Share subscriptions will be made on one or several copies of the founders' issue prospectus stamped by the commercial registry court judge.

The subscription will show: first and last name or trade name, residence or head office of the subscriber, the number (spelled out) of subscribed shares, the date of subscription, and an express statement that the subscriber is familiar with and accepts the issue prospectus.

An issue prospectus that does not feature all the legal information will be null and void. A subscriber cannot take advantage of this status if he has attended the incorporation meeting or exercised a shareholder's rights and obligations.

Even when accepted by the subscribers, participation in company profits reserved by the founding members for their own benefit will not take effect unless approved by the incorporation assembly.

**Article 12**

Fifteen days at the latest from the date of closing of the subscription, the founding members will convene the incorporation assembly by a public notice in MONITORUL OFICIAL, carried 15 days before the date set for the meeting. The notice will show the place and date of the meeting, which may not take place more than two months from the date of closing of the subscription, as well as a detailed presentation of the agenda.

**Article 13**

The company may be incorporated only if the entire capital was subscribed and each subscriber paid half of the value of his shares in cash into the National Bank, the Savings and Loans Bank, or one of their branches.

Shares representing investments other than cash must be covered in full. Investment in the form of transferred debts is not permissible.

**Article 14**

If the public subscriptions exceed or fall short of the registered capital envisaged in the issue prospectus, the founding members are obligated to request the permission of the incorporation assembly to increase or reduce the registered capital, as the case may be, to the level of the subscription.

**Article 15**

The founding members are obligated to prepare a list of those who, having accepted the subscription, are entitled to participate in the incorporation assembly, and must show the number of shares owned by each.

This list will be posted at the site of the meeting at least five days before the meeting.

**Article 16**

The assembly will elect a president and two or more secretaries. The participation of subscribers [acceptanti] will be verified by means of attendance sheets signed by each one of them and stamped by the president and secretary.

Any subscriber is entitled to comment on the list posted by the founding members prior to the beginning of the agenda discussions of the meeting, who will rule on them.

**Article 17**

At the incorporation meeting each subscriber is entitled to vote regardless of his shares. He may also be represented by special power of attorney. No one may represent more than five subscribers.

Subscribers who have invested assets other than cash do not have the right to vote on the deliberations concerning their investment, even if they have also subscribed for shares in cash or are attending as empowered representatives of other subscribers.

The incorporation assembly is legal in attended by half plus one of the number of subscribers, and it makes decisions by a simple majority vote of those present.

**Article 18**

If there are investments in kind, advantages reserved for the founding members, transactions carried out by the founding members in the name of the company being incorporated and that the company will assume, the incorporation assembly will appoint one or several experts to advise on the appraisals.

If the necessary majority is not secured, the experts will be designated by the court president at the request of any of the subscribers.

**Article 19**

The following may not be designated as experts:

—Blood relatives or relatives by marriage, down to and including four times removed, and the spouses of those who made investments in kind or the spouses of founding members;

—Persons who are paid by the founding members or contributors of investments in kind of a salary or fee in whatever form for services other than appraisals.

**Article 20**

After the experts have filed their report, the founding members will once again convene the incorporation assembnly in compliance with Article 12.

If the value set by the experts on the investments in kind is one-fifth lower than the value shown by the founding members in the issue prospectus, any subscriber may withdraw by informing the founding members prior to the date set for the incorporation meeting.

The shares earmarked for subscribers who have withdrawn may be taken over by the founding members or other persons by means of public subscription, within 30 days.

**Article 21**

The incorporation assembly has the following obligations:

—To verify the existence of payments;

—To determine the value of investments other than cash; to approve the founding members' participation in the profits and the transactions conducted in the name of the company;

—To discuss and approve the deed of incorporation and the statute of the company with the agreement of the members present—who will also represent the absent members for that purpose—and to designate those in charge of having the documents legalized and carry out the formalities required for the incorporation of the company;

—To appoint executive officers and auditors.

**Article 22**

The operation of limited and mixed liability public companies requires the authorization of the court in whose jurisdiction the company will have its head office.

In order to secure this authorization, within 15 days of the legalization of the deed of incorporation and the statute, the latter will be filed, together with the authorization application, and will be accompanied by the following:

—Proof of payments;

—Documents attesting ownership of investments other than cash and, should they include buildings, a document showing the encumbrances on them;

—Documents relating to the transactions concluded in the name of the company and approved by the incorporation meeting.

**Article 23**

Upon receiving the authorization application, the court president will set a date in court and will ask for the advice of the county Chamber of Commerce and Industry concerning the usefulness of the company, the size of the capital in relation to the object pursued, and the reputation of the founding members or partners, as the case may be. The advice of the Chamber of Commerce and Industry is not binding.

Should it deem it necessary, the court may order an appraisal, at the expense of the parties, in order to estimate the value of the investment in kind, whereby the provisions of Articles 18 and 19 will be applied accordingly.

If either the deed or the statute violates a legal provision from which the sides may not depart, the court will authorize the operation of the company if the clauses in question are duly amended.

The court ruling may be appealed within 15 days of being pronounced.

**Article 24**

Within 15 days of the date on which it became final, the ruling and the deed will be filed at the commerce registry of the company headquarters and at the fiscal office. The ruling, the deed of incorporation, and the statute will be published in MONITORUL OFICIAL.

The company becomes a legal entity on the date on which it is entered in the commerce register. The registration may be entered only in compliance with the last paragraph of Article 4.

The provisions of Articles 5 and 6 will be applied to both limited and mixed liability public companies.

**Article 25**

The payments made in compliance with Article 13 for the incorporation of the company by public subscription will be given to the persons charged with receiving them under the deed of incorporation; in the absence of such a provision, it will be given to the persons designated by a decision of the managing board upon presentation of the commercial registry certificate showing that the company has been incorporated.

If the company was not incorporated, the payments will be returned directly to the subscribers.

**Article 26**

The company will not be viewed as legally incorporated before the formalities stipulated in Articles 22 and 24 have been fulfilled.

In such cases the partners may request to be released from the obligations flowing from their subscriptions at the end of three months from the expiration of the term stipulated in Article 22 or Article 24, Paragraph 1.

Similarly, any of them may proceed to carry out the legal publication formalities.

Once one associate has requested the fulfillment of the registration formalities, none of them may still ask to be released from the subscription obligations.

The provisions of Article 7, Paragraphs 2 and 3, are also valid for limited and mixed liability public companies.

**Article 27**

The signatories of the deed of incorporation and the persons who played a decisive role in its incorporation will be viewed as founding members.

The founding members are obligated to give to the executive officers the documents and correspondence concerning the incorporation of the company.

The founding members bear unlimited joint responsibility toward third parties for both failure to fulfill the legal formalities involved in the incorporation of the company and for the obligations assumed when the company was incorporated.

They will assume the consequences of the actions and outlays required for the incorporation; if, for any reason whatsoever, the company is not incorporated, they may not take action against [indrepta contra] the subscribers.

**Article 28**

From the moment the company has been incorporated the founding members and the first executive officers are jointly responsible toward the company and third parties for:

—The complete subscription of the registered capital and the payments envisaged by the law or statute;

—The existence of investments other than cash;

—The truthfulness of the statements published for the incorporation of the company.

The founding members are also responsible for the validity of the transactions carried out in the name of the company before its incorporation and assumed by it.

The general assembly may not absolve the founding members and the first executive officers of the responsibility incumbent on them under this article and under Article 27 for a period of five years.

**Article 29**

The following persons may not be founding members: persons who are legally incompetent or who were convicted for management irregularities, breach of trust, fraud, deceit, embezzlement, false witness, giving or taking bribe, and other felonies punishable in accordance with the present law.

**Article 30**

The incorporation assembly will decide the net benefit participation quota due to the founding members of a company incorporated by public subscription.

The quota envisaged in the first paragraph may not exceed 6 percent of the net profit and may not be awarded for a period longer than five years from the date of incorporation.

If the registered capital should increase, the founding members' right will be exercised only on the profits earned by the initial capital.

Only physical persons whose status as founding members was acknowledged in the deed of incorporation may enjoy the provisions of this article.

**Article 31**

If the company is dissolved before the end of term, the founding members are entitled to request damages from the company if the dissolution occurred in violation of their rights.

The right to take action is forfeited by the lapse of six months from the date of the shareholders general meeting that decided the early dissolution.

## Chapter III

## Limited Liability Companies

**Article 32**

Limited liability companies are formed by a deed of incorporation and statute, drawn up in legalized form. The deed will feature the information requested under Article 3 for general partnerships and the distribution of the capital shares [parti sociale].

Services and transferred debts may not be used as investment.

Assets used as investment in kind will be produced at the time of the incorporation of the company.

Capital shares may not be represented by negotiable stock.

Upon request the managers will issue a stock certificate showing ownership of shares, which may not, however, be used as a transfer deed under penalty of voiding the transfer.

**Article 33**

If, aside from their investment, one or all the associates pledge periodical contributions in kind to the company, the deed of incorporation will stipulate the nature, duration, and method of contribution, the remuneration due for it, and measures against partners who fail to fulfill their obligations.

**Article 34**

The number of members in a limited liability company may not exceed 50.

The registered capital may not be lower than 100,000 lei, divided into equal shares of no less than 5,000 lei each.

Investments in kind may represent at most 60 percent of the registered capital.

The deed of incorporation and the statute will be filed, in compliance with Article 22, at the court in whose jurisdiction the business has its headquarters in order to secure the operation authorization required under Article 23.

The provisions of Articles 3, 5, 6, and 26 will be applicable to limited liability companies, too.

## TITLE III

## Operation of Business Companies

### Chapter I

### General Provisions

**Article 35**

In the absence of stipulations to the contrary, the assets incorporated as shares contributed to the company will become its property.

An associate who delays producing his share of capital will be held responsible for the damages incurred, and if the share was stipulated in cash he will also be liable for the legal interest accrued from the day of due payment.

**Article 36**

Throughout the life of the company a member's creditors may exercise their claims only on the share of the profit due to the partner according to the balance sheet, and after the dissolution of the company on the share due to him after liquidation.

Nevertheless, during the life of the company the creditors described in Paragraph 1 may freeze the portion due to the associates under liquidation, or may seize and sell their debtors' shares.

**Article 37**

The amount of the profits that will be paid to each shareholder constitutes the dividend.

The dividends will be paid to the shareholders in proportion to the value of their shares in the registered capital.

Dividends may be distributed only out of real profits.

Dividends distributed in violation of the above provisions will be returned.

The right to have dividends returned is forfeited after three years of their distribution.

**Article 38**

The associates' contributions to the registered capital are not interest bearing.

**Article 39**

Should a drop be noted in the registered capital, the capital must be restored or reduced before any allocation or distribution of profits.

**Article 40**

The executive officers may carry out all the operations required to fulfill the objective of the company, except for the restrictions shown in the deed of incorporation.

They executive officers are obligated to attend all the meetings of the company, the managing boards, and similar bodies.

**Article 41**

The executive officers who are entitled to represent the company may transfer this right only upon expressed permission to do so.

Should the provisions of the previous paragraph have been violated, the company is not liable to third parties, but it may claim the profits accrued from the transaction from the person replaced.

An executive who illegally substitutes another person will be jointly liable with the latter for any damages caused to the company.

**Article 42**

The obligations and liabilities of the executive officers are regulated by the provisions concerning their mandate and those specially envisaged in this law.

**Article 43**

The executive officers are jointly responsible to the company for:

a) The existence of the payments made by shareholders;

b) The actual existence of the dividends paid out;

c) The existence and correct bookkeeping of the ledgers required by law;

d) Exact implementation of the decisions of the general meetings;

e) Exact fulfillment of the duties incumbent on them under the law, the deed of incorporation, and the statute.

Company creditors may hold the executive officers to their liability, but only if the company goes bankrupt.

**Article 44**

The legal name and the head office of the company must be shown on every document, letter, or publication issued by the company, in addition to its trade name and serial number in the commerce register.

Limited liability companies must also show their registered capital, while limited and mixed liability joint-stock companies must show the registered capital and the capital actually paid in accordance with the latest approved balance sheet.

### Chapter II

### General Partnerships

**Article 45**

Each executive officer is entitled to represent the company unless otherwise stipulated in the deed of incorporation.

**Article 46**

If the deed of incorporation envisages that the executive officers will work together, decisions must be taken unanimously; in case of dispute among the executives officers, a decision will be taken by the partners holding the absolute majority of the registered capital.

In case of urgently required actions, the absence of which is apt to cause the company serious damage, one executive officer may decide in the absence of the others who may be even momentarily incapacitated from participate in the decision.

**Article 47**

The members holding the absolute majority of the registered capital may elect one or several executive officers from among themselves, establish their powers, tenure, and possible remuneration, unless otherwise envisaged in the deed of incorporation.

The same majority may decide to remove the executive officers or restrict their powers, unless the executive officers were designated in the deed of incorporation.

**Article 48**

If one executive officer takes the initiative for a transaction exceeding the scope of the company's usual dealings, he must inform the other executives before concluding it, under penalty of being liable for any possible losses resulting from it.

Should one of them express opposition, the partners holding the majority of the registered capital will make the decision.

A transaction concluded in the face of opposition is valid with respect to third parties who will not be apprised of such opposition.

**Article 49**

A partner who has interests opposed to those of the company in a given transaction, on his own or on behalf of others, may not participate in any of the deliberations or decisions concerning the transaction in question.

A partner who violates the provisions of Paragraph 1 will be liable for the damages incurred by the company if the required majority would not have been secured without his vote.

**Article 50**

A partner who uses company capital, assets, or credit for his own benefit or for the benefit of a third party without the written agreement of the other partners, will be obligated to reimburse the company for the profits made and to pay damages for losses incurred.

**Article 51**

No partner may take out of the company funds more than was decided for expenditures made or scheduled to be made in the interest of the company.

A partner who violates this provision will be liable for the amounts taken and for losses.

The deed of incorporation may stipulate that the partners may withdraw given amounts from the company cash for their private expenses.

**Article 52**

By virtue of bearing unlimited liability, the associates may not participate in competing companies or companies having the same purpose, nor may they carry out transactions for themselves or for others in the same kind or similar business without the agreement of the other partners.

Agreement is considered to have been given if such participation or transactions, having taken place prior to the deed of incorporation, were known to the other partners and they did not object to their being continued.

Should the provisions of Paragraphs 1 and 2 have been violated, aside from the right to oust the partner in question, the company may either decide that he was working for it or may demand damages.

This right lapses three months after the day on which the company learned of the case without taking any decision.

**Article 53**

When the share contributed to the registered capital belonged to several persons, they will be jointly liable to the company and must designate a joint representative to exercise the rights coming from that share.

**Article 54**

A partner who entered one or more outstanding debts as his contribution to the joint capital will not be released as long as the company has not secured payment for the debts in question.

If payment cannot been secured from the transferred debtor, the partner, aside from damages, will be liable for the amount of the debt plus the legal interest from the day the debt came due.

**Article 55**

The partners have unlimited joint liability for transactions carried out in the name of the company by the persons who represent it.

A court ruling returned against the company is imputable to each partner.

**Article 56**

Approval of the balance sheet and decisions concerning the executive officers' responsibilities require the vote of the partners representing the majority of the registered capital.

**Article 57**

Capital shares may be transferred if allowed under the deed of incorporation.

The shares transfer does not release the transferring partner from what he still owes the company for his contribution to its registered capital.

The transferring partner remains liable to third parties in accordance with Article 168.

When the deed makes provisions for the withdrawal of one partner, the provisions of Articlea 168 and 170 will apply.

## Chapter III

## Mixed Liability Joint-Stock Companies

**Article 58**

The management of a mixed liability joint-stock company will be entrusted to one or several of the active partners.

**Article 59**

A silent partner may conduct business on behalf of the company only on the basis of a special power of attorney for specific transactions issued by the company representatives and recorded in the commercial register. Otherwise, the silent partner will bear unlimited, full liability toward third parties for all the obligations contracted by the company as of the date of the transaction conducted by him.

A silent partner may carry out duties in the internal administration of the company, act in a supervisory capacity, participate in the appointment and removal of executive officers—in the cases envisaged by law—or may give authorization to the executives officers within the limitations of the deed of incorporation for transactions exceeding their powers.

The silent partner also has a right to demand a copy of the balance sheet and the profit and loss account, and to verify their accuracy by examining the business ledgers and other background documents.

**Article 60**

The provisions of Articles 45 and 46, Paragraph 1, Articles 47, 49, 53, 54, 56, and 57 are applicable to mixed liability joint-stock companies and the provisions of Articles 50, 51, 52, and 55 are applicable to active partners.

## Chapter IV

## Joint-Stock Companies

### Section I

### Shares

**Article 61**

In a joint-stock company the registered capital consists of the stock issued by the company, which may be in the form of registered or bearer shares.

The form of the shares will be decided by the deed of incorporation and statute; otherwise they will be bearer shares.

Shares may not be issued for less than their nominal value.

Shares not paid for in full are always registered.

The registered capital may not be increased and new shares may not be issued until the shares of the previous issue have been completely paid for.

**Article 62**

The nominal value of one share may not be less than 1,000 lei.

The shares will show:

a) Name and duration of the company;

b) The date of the deed of incorporation, the company's serial number in the commercial register, and the issue of MONITORUL OFICIAL in which it was published;

c) The registered capital, number of shares and their serial number, nominal value of the shares, and payments made;

d) Advantages awarded to the founding members.

Registered shares will also indicate the first and last name and address of the shareholder, or trade name and headquarters, as the case may be.

Shares must bear the signature of two executive officers when there are several, or of the sole executive officer.

**Article 63**

All shares must be equal in value; they give the owners equal rights.

**Article 64**

The right of ownership of registered shares is transferred by a statement entered in the issuer's shares ledger, signed by the transferor and issuer or by their representatives, and by a mention to the effect noted on the share.

The subscribers and later transferors are jointly responsible for full payment of the shares for a period of three

years calculated from the date on which the transfer was entered in the company ledger.

**Article 65**

The right of ownership of bearer shares is transferred by the simple delivery of the shares.

**Article 66**

When the shareholders have not paid the amounts due, the company will invite them to fulfill that obligation, doing so by a collective summons published twice, at 15 days interval, in the MONITORUL OFICIAL and in a widely distributed newspaper.

If the shareholders have not met the payments even after those summons, the managing board will decide either to pursue the outstanding payments from the shareholders, or cancel those registered shares.

The decision to cancel will be published in MONITORUL OFICIAL, with mention of the serial number of the cancelled shares.

New shares with the same number will be issued instead of those cancelled and will be sold.

The amounts obtained from the sale will be used to cover publication and sale costs, overdue interest, and failed payments; remaining money will be returned to the shareholders.

If the price secured is not sufficient to cover all the amounts due to the company, or if there is no sale because of a shortage of buyers, the company can take action against the subscribers and transferors in accordance with Article 64.

If the amounts due to the company have not been secured after the completion of those formalities, the capital will immediately be reduced in line with the difference between the existing capital and the registered capital.

**Article 67**

Every share carries one vote at the company meetings.

The deed of incorporation or the statute can limit the number of votes allowed to shareholders owning more than one share.

The right of vote will be suspended for shareholders who are not on schedule in their payment for installments that have come due.

**Article 68**

Shares are indivisible.

When an individual share becomes the property of several persons, the company is not obligated to enter the transfer as long as the persons in question have not designated one representative to exercise the rights coming from the share.

Similarly, when a bearer share belongs to several persons, they must designate a joint representative.

As long as a share is the undivided property of several persons, they are jointly responsible for making the payments due.

**Article 69**

The company may not acquire its own shares, nor grant loans or downpayments against them unless so decided by the shareholders general assembly by way of the vote of the shareholders representing two-thirds of the registered capital.

**Article 70**

Shareholders who offer their shares for sale by means of advertising must prepare a prospectus featuring—aside from the information stipulated in Article 9—the company's profit and loss account as per the most recent balance sheet, dividends distributed, debentures issued, and guarantees offered.

A legalized copy of the prospectus, signed by shareholders and executive officers, will be filed with the commercial register in the area of the company headquarters. The court judge in whose jurisdiction the company is located will authorize the publication of the prospectus after verifying compliance with the conditions stipulated in Paragraph 1.

Notices having the same contents as the prospectus will be published in at least two of the most widely read newspapers in the locality in which the company has its headquarters.

The provisions of Article 11, Paragraphs 1 and 2, will be duly applicable to share buyers.

Any prospectus that does not feature all the information requested under Paragraphs 1 and 2 will be null and void, and sales will be declared the same at the request of the buyer, unless the latter has not exercised his rights and obligations as a shareholder.

**Article 71**

The shares situation must be published together with the annual balance sheet and must particularly show whether the shares were paid for in full and the number of shares for which payment was requested to no avail.

## Section II

## General Meetings

**Article 72**

The general meetings may be ordinary or extraordinary.

Unless otherwise provided in the deed of incorporation or the statute, the meetings will be held at the company head office and in the building indicated in the invitation.

**Article 73**

The ordinary meeting is convened at least once a year, at the most three months after the end of the fiscal year.

In addition to discussing other issues on the agenda, the general meeting is obligated to:

a) Discuss and approve or amend the balance sheet after hearing the reports of the executive officers and auditors, and set the dividend;

b) Elect executive officers and auditors;

c) Decide the salary of executive officers and auditors for the current accounting period, unless it was established under the deed of incorporation or statute;

d) Evaluate the performance of the executive officers;

e) Establish the revenues and expenditures budget and, as the case may be, the plan of activities for the following accounting period;

f) Decide on underwriting [gajarea], leasing, or winding up one or more company subsidiaries.

**Article 74**

The presence of the shareholders holding at least half of the nominal capital is required for the meeting discussions to be validated, and the decisions must be taken by the shareholders holding the absolute majority of the nominal capital represented at the meeting, unless a greater majority is stipulated in the deed of incorporation, statute, or the law.

If the meeting cannot be conducted because of failure to meet the conditions listed under the previous paragraph, the meeting convened after a second call may deliberate the issues on the agenda of the first meeting whatever the percentage of capital represented by the shareholders present; a majority is required.

**Article 75**

An extraordinary meeting will be convened whenever it becomes necessary to make a decision on:

a) Extending the duration of the company;

b) Increasing the capital;

c) Changing the objective of the company;

d) Changing the form of the company;

e) Changing the head office;

f) Merging with other companies;

g) Reducing the nominal capital or supplementing it by a new shares issue;

h) Winding up the company before its term is over;

i) Issuing debentures;

j) Any other change in the deed of incorporation or the statute, or any other decision requiring the endorsement of the extraordinary meeting.

**Article 76**

Unless otherwise stipulated in the deed of incorporation or statute, the following requirements must be met for the deliberations of the extraordinary meeting to be valid:

—At the first summons there must be the presence of the shareholders representing three-fourths of the nominal capital; the decisions must be made with the vote of the holders of at least half of the nominal capital;

—At subsequent summons there must be the presence of the shareholders representing half of the nominal capital; the decisions must be made with the vote of the holders of at least one-third of the nominal capital.

**Article 77**

The general meeting will be convened by the executives whenever necessary in compliance with the provisions of the statute.

The date of the meeting may in no circumstance occur less than 15 days after the publication of the summons.

The summons will be published in the MONITORUL OFICIAL and in one of the popular newspapers in the area of the company head office or in the nearest locality.

The summons will show the place and date of the meeting and an explicit presentation of all the issues scheduled to be discussed by the assembly.

When the agenda includes recommendations to amend the statute, the summons must include a full text of the recommendations.

**Article 78**

The summons for the first general meeting may also set the day and time for a second meeting, should the first not take place.

The second meeting may not convene on the date set for the first meeting.

If the date of the second meeting is not given in the notice published for the first meeting, the term stipulated in Article 77 may be reduced to eight days.

**Article 79**

The executive officers are obligated to immediately convene a general meeting at the request of shareholders representing one-tenth or less of the nominal capital if so provided in the deed of incorporation and if the request deals with provisions that are part of the assembly's duties.

The meeting will take place within one month of being requested.

If the executive officers do not convene the meeting, the court in whose jurisdiction the head office is located may order it convened after hearing the sides, and will designate one shareholder to chair it.

**Article 80**

The shareholders exercise their voting rights during the general meeting in proportion to the number of shares they hold, with the exception stipulated in Article 67, Paragraph 2.

**Article 81**

The shareholders representing the entire nominal capital may hold a general meeting, if none of them is opposed, and make any decision in the competence of the assembly without having to observe the formalities required to convene it.

**Article 82**

At the general meetings, shareholders who own bearer stock have a right to vote only if they have deposited them at the places indicated in the statute or by the summons notice at least five days prior to the meeting. The auditors will draft a report attesting that the stock was deposited on time. The stock will remain deposited until after the general meeting, but may not be held longer than 10 days after it.

**Article 83**

Shareholders may be represented at general meetings only by other shareholders by special power of attorney.

Shareholders who do not have legal power may be represented by their legal representatives, who may in turn give power of attorney to other shareholders.

The powers of attorney will be filed in the original within the term in which shareholders are obligated to deposit their stock or within the term stipulated in the statute. They will be kept by the company and a mention of the fact will be made in the minutes.

The deed of incorporation or the statute may deviate from the provisions concerning representation only by shareholders.

Company executives and clerks may not represent the shareholders, under penalty of void decisions, if the required majority would not have been secured without their vote.

**Article 84**

The executive officers may not vote, on the basis of the shares they own, either personally or by proxy, on matters regarding their performance or on issues in which their person or management come into question. They may, however, vote on the balance sheet and the profit and loss account if they own at least half of the nominal capital and thus the legal majority cannot be secured without their vote.

**Article 85**

A shareholder who in a given transaction holds either personally ar as the representative of another person interests contrary to those of the company, will have to abstain from the discussions concerning the transaction in question.

A shareholder who violates the above provision will be held responsible for any damages caused to the company if, without his vote, the required majority would not have been secured.

**Article 86**

The right to vote may not be given up. Any agreement regarding a certain use of the right to vote is null and void.

**Article 87**

On the date and hour indicated in the summons the meeting wil be opened by the president of the managing board or his acting president.

The president will designate two or more secretaries from among the shareholders who will verify the shareholders' attendance sheet, specifying the capital held by each, the auditors' report attesting to the number of shares deposited, and the fulfillment of all the formalities required by law and statute for holding the meeting, after which the meeting will proceed to the agenda.

**Article 88**

The meeting will pass decisions by open ballot.

Whatever the provisions of the deed of incorporation and statute, secret ballot is obligatory for electing the managing board and the auditors, for revoking them, and for taking decisions concerning the executive officers' responsibilities.

**Article 89**

A report signed by the president and secretary will attest to compliance with the summons formalities, the date and place of the meeting, shareholders present, number of shares, summary of the discussions, decisions taken, and, upon shareholders' request, their statements at the meeting.

The report will be accompanied by the documents concerning the summons and the shareholders' attendance sheets.

The report will be entered in the general meetings book.

In order to be valid vis-a-vis third parties, the meeting decisions must be filed with the commerce register

within 15 days in order to be mentioned in extract in the register and published in MONITORUL OFICIAL.

They may not be carried out prior to the fulfillment of the above formalities.

**Article 90**

The decisions taken by the general meeting in compliance with the law, the deed of incorporation, or the statute are equally binding on the shareholders who did not attend the meeting or voted against them.

General meeting decisions that run counter to the law, the deed of incorporation, or the statute can be contested in court within 15 days of their date of publication in MONITORUL OFICIAL by any of the shareholders who did not attend the general meeting or voted against and asked that a mention of that be entered in the minutes of the meeting.

If the decision is contested by all the executive officers, the company will be represented in court by a person designated by the court president from among the shareholders who will fulfill his mandate until a general meeting convened for the purpose has elected another person.

The rescind request will be filed with the court in whose jurisdiction the company has its head office; the shareholder in question is obligated to deposit at least one share with the office of the clerk of the court.

If several rescind actions were field, they may be linked.

The request will be tried in camera.

The final rescind decision will be entered in the commerce book and published in MONITORUL OFICIAL. The decision is binding for all the shareholders as of the date of its publication.

**Article 91**

Simultaneously with filing the rescind action, the plaintiff may ask the court president to suspend the implementation of the decision being contested.

The president, having approved the suspension, may ask the plaintiff to deposit a security.

The suspension order may be appealed within five days of its being pronounced.

**Article 92**

The shareholders who do not agree with the assembly's decisions on changing the main object of the company, moving the head office, or changing the form of the company, have a right to withdraw from the company and to be reimbursed for their shares, at their choice, in proportion to the nominal assets shown by the latest approved balance sheet.

They will deposit their shares together with their withdrawal statement.

## Section III

## Company Management

**Article 93**

A joint-stock company is managed by one or more temporary and revokable executive officers.

When there are several executive officers they form a managing board.

A sole manager or the president of the managing council and at least half of the executive officers will be Romanian citizens, unless otherwise stipulated in the deed of incorporation or statute.

The executive officers are appointed and replaced only by the general meeting.

The first executive officers may be appointed under the deed of incorporation, but their term in office may not be longer than four years.

If the deed of incorporation or statute do not stipulate a term of mandate, that term will be for two years.

The executive officers may be reelected unless otherwhise stipulated in the deed of incorporation or statute.

**Article 94**

The persons who according to the present law may not be founding members, may not be executive officers, directors, or representatives of the company either, and should they have been elected, their rights will be forfeited.

**Article 95**

Each executive officer must deposit the security stipulated in the deed of incorporation or statute for his management or, in the absence of such provision, the security approved by the shareholders' assembly. The security may not be smaller than the value of 10 shares or double their monthly salary.

If the executive officer is also a shareholder, the security may consist, at his request, of 10 deposited shares which, during his term in office, will remain irredeemable and will be kept by the company.

The security will be deposited before the executive officer takes office; it may also be deposited by a third party.

If the security is not deposited prior to the date on which he is to take office, the executive officer in question will be viewed as having resigned.

The security will remain in the possession of the company and may not be returned to the executive officer until after the general meeting has approved the balance

sheet of the last accounting period in which he was in office and has discharged him.

**Article 96**

The signatures of the executive officers will be entered in the commerce book simultaneously with the presentation of the auditors' certificate attesting that the security has been deposited.

**Article 97**

The personal presence of at least half of the executive officers is necessary for the decisions of the managing board to be valid, unless a larger number is stipulated in the deed of incorporation or statute.

Decisions are made by an absolute majority of the members present.

**Article 98**

The managing board may delegate some of its powers to a managing committee made up of elected executive officers, at the same time establishing their salary.

The chairman of the managing board will also serve as director or director general, in which status he will oversee the board of directors.

The managing board's decision regarding the money needed to pay the managing committee must be ratified by the general meeting if it exceeds the statute provisions or if the statute makes no provision in this respect.

The decisions of the managing committee will be taken by an absolute majority of votes of its members.

The managing committee is obligated to produce its discussions records at each meeting of the managing board.

Votes in the managing committee may not be delegated.

**Article 99**

Company clerks will be appointed by the managing board unless otherwise stipulated in the deed of incorporation or statute.

The managing board may at any time remove persons appointed to the managing committee.

**Article 100**

No one may sit on more than three managing boards at the same time.

The above interdiction does not apply in cases in which the person elected to the managing board owns at least one-fourth of all the shares or serves as an executive officer at a company which owns one-fourth of the shares.

A person who violates the above provision by exceeding the legal number in the chronological order of appointments will legally forfeit his status as executive officer, and will be sentenced to pay to the state the salary and other benefits due to him, and to return the moneys received.

Action against executive officers may be taken by any shareholder or by the Ministry of Finance.

Without the permission of the managing board, the members of the managing committee and the directors of a limited company may not serve as executive officers, members of the managing committee, auditors, or partners with unlimited liability in competing companies or companies with the same objective, nor can they exercise the same trade or a competing one on their own or someone else's behalf, under punishment of revocation and liability for damages.

**Article 101**

Without the approval of the general assembly, the executive officers may not sign contracts under which the company is to acquire buildings, plants, and generally durable assets earmarked for the use of the company, for a price that as a whole or in part exceeds one-tenth of the nominal capital, unless otherwise stipulated in the deed of incorporation or statute.

**Article 102**

The executive officers are responsible for fulfilling all their obligations in compliance with Articles 42 and 43.

The managing committee and all the executive officers are answearable to the company for the actions of the directors or the hired personnel when a damage would not have occurred if they had provided the oversight inherent in their post duties.

The managing committee must inform the managing board of any violations noted in the course of their overseer duties.

The executive officers are liable jointly with their immediate predecessors if, having knowledge of irregularities committed by the latter, they did not disclose them to the auditors.

In companies with several executive officers, the responsibility for actions carried out or for omissions does not extend to the executive officers who registered their opposition in the book of records containing the decisions of the managing board and apprised the auditors of it in writing.

Executive officers will be liable for decisions taken at meetings they did not attend if, within one month of having been apprised of them, they did not register their opposition in the forms cited in the previous paragraphs.

**Article 103**

An executive officer who has direct or indirect interests contrary to the company interests in a given transaction must apprise the other executive officers and the auditors of it and must abstain from participating in any deliberation concerning the transaction in question.

The same obligation is incumbent on the executive who knows that his wife, blood relatives, or relatives by marriage up to and including four times removed have an interest in a given transaction.

The executive officer who does not observe the provisions of Paragraphs 1 and 2 will be liable for the damages incurred by the company.

**Article 104**

The managing board will meet whenever necessary.

The board must meet at least once a month at the head office; the managing committe must meet at least once a week.

Summons for managing board meetings will show the venue of the meeting and the agenda; decisions may not be taken on unforeseen issues except in emergency cases and on condition of their being ratified at the following meeting by the absent members.

At meetings of the managing board the directors will present written reports on the transactions carried out, and the managing committee will present the records of its deliberations.

The auditors will also be invited to attend the meetings of the managing board.

Minutes will be taken at each meeting; the minutes will show the order of discussions, the decisions made, the number of votes obtained, and separate opinions.

**Article 105**

The implementation of company transactions may be entrusted to one or several executive directors employed by the company.

The executive directors may not be members of the company's managing board.

Together with the executive officers, they are liable to the company and to third parties for defaulting on their duties in compliance with Article 102, even if some agreement to the contrary should exist.

**Article 106**

Fixed salaries and other moneys or benefits may be awarded to the executive officers and auditors only on the basis of a decision of the general assembly.

**Article 107**

Any shareholder is entitled to report to the auditors any actions he thinks should be censored; the auditors are obligated to verify them and, if they find the claims justified, they are obligated to include them in their report to the general assembly.

If the claim was made by shareholders who represent at least one-fourth of the nominal capital or a lower percentage if so envisaged by the statute, the auditors are obligated to present their observations and recommendations on the claim lodged.

If the auditors view the complaint lodged by shareholders representing one-fourth of the nominal capital as founded and urgent, they are obligated to immediately convene the general assembly. If the case is the opposite, they must report to the first meeting, and the assembly must take a decision on the complaints filed.

The one-fourth of the capital is proven by depositing the stock at banks in Romania, at the Saving and Loan Bank, or at their branches.

The shares will remain with the bank until after the general meeting and will also serve to verify the participation of the shareholders in question at the meeting.

**Article 108**

The general meeting will take action concerning the liability of founding members, executive officers, auditors, and directors; the decision requires the majority specified in under Article 74.

The decision can be taken even if the issue concerning their liability is not on the agenda.

The assembly will designate, pending the same majority of votes, a person who will represent the action in court.

If the assembly decides to sue the executive officers for liability, their mandate is legally terminated and the assembly will proceed to replace them.

If action is filed against the directors, the latter will be legally suspended from their post until a final ruling is passed.

**Article 109**

If one or several of the executive officers are on leave, the other executives, together with the auditors, having deliberated in the presence of two-thirds and secured an absolute majority, will proceed—unless otherwise specified in the deed of incorporation or statute—to appoint a provisional executive officer until the general meeting is convened.

When there is only one executive and he wants to pull out, the general meeting must be convened. In case of the executive's death or physical incapacitation, the provisional appointment will be made by the auditors, but the

general assembly will be urgently convened for the permanent appointment of an executive officer.

**Article 110**

Should the executive officers ascertain the loss of half of the nominal capital, they are obligated to convene an extraordinary meeting to decide either on restoring the capital, limiting it to the amount left, or dissolving the company.

The deed of incorporation or the statute may rule that the extraordinary meeting is to be convened upon a smaller loss, too.

If the quorum specified in Article 76 was not secured at the second summons either, the executive officers will petition the court in whose jurisdiction the company has its head office to appoint an appraiser to verify the nominal capital losses. On the basis of the appraisal and having verified a loss in compliance with Paragraph 1 or 2, the court will issue a conclusion authorizing the executive officers to convene the general assembly, which can decide to limit the capital to the amount left or to dissolve the company, however many shareholders may be present.

**Section IV**

**The Auditors**

**Article 111**

A joint-stock company will have three auditors and as many acting auditors, unless a larger number is envisaged in the deed of incorporation or the statute. In every case the number of auditors must be an odd number.

At the beginning the auditors will be elected by the assembly of incorporation. They will serve for a term of three years and may be reelected.

The auditors must discharge their mandate personally.

At least one of them must be a licenced accountant or a certified public accountant.

At companies in which the state holds at least 20 percent of the nominal capital, one of the auditors will be recommended by the Ministry of Finance.

The majority of the auditors and deputies will be Romanian citizens.

The auditors are obligated to deposit one-third of the security required for executive officers within the term indicated in Article 95.

**Article 112**

The auditors must be shareholders, with the exception of the auditors who are accountants.

The following persons may not serve as auditors, and if elected, will forfeit their mandate:

a) Blood relatives or relatives by marriage up to and including four times removed, or spouses of the executive officers;

b) Persons who draw a salary or remuneration from the executive officers or the company, in any form, for services other than that of an auditor;

c) Persons who may not serve as executives in compliance with Article 94.

The auditors will receive a fixed allowance as established by statute or by the general assembly who appointed them.

**Article 113**

In case of death, physical or legal incapacitation, lapse or resignation of the mandate of an auditor, the eldest acting auditor will take his place.

If the number of auditors cannot be restored in this manner, the remaining auditors will appoint other persons to the vacant positions until the convening of the next general meeting.

Should none of the auditors still be in position, the executive officers will call an emergency general meeting, which will proceed to appoint new auditors.

**Article 114**

The auditors are obligated to oversee the administration of the company, to verify that the balance sheet and the profit and loss account are legally made out and in accordance with the ledgers, that the latter are regularly kept, and that the assets were appraised in keeping with the rules established for the balance sheet.

The auditors will give the general meeting a detailed report on all the above and will make due recommendations regarding the balance sheet and profit distribution.

The general assembly cannot approve the balance sheet and profit and loss account if they are not accompanied by the auditors' report.

The auditors are also obligated to:

a) Carry out monthly unnanounced inspections of the cash account and verify the existence of stock or assets belonging to the company or such as were received as a security, collateral, or deposit;

b) Convene the ordinary or extraordinary meeting when the executive officers have not done so;

c) Attend ordinary and extraordinary meetings; they may make proposals for the agenda as they see fit;

d) Ascertain that the executive officers regularly deposit guarantees;

e) Ensure that legal provisions and the deed of incorporation or statute are observed by the executive officers and liquidators.

The auditors will inform the executive officers of any management irregularities and legal or statute violations noted and will report serious cases to the general assembly.

**Article 115**

The auditors are entitled to receive a monthly situation report from the executive officers.

The auditors will attend the executive meetings, but without voting rights.

The auditors are forbidden to communicate to individual shareholders or third parties information concerning company business learned in the course of their duties.

**Article 116**

The auditors will deliberate together for fulfilling the obligation stipulated under Article 114, Paragraph 2; in the case of disagreement, they may present separate reports to the general assembly.

The auditors may work separately concerning their other legal obligations.

The auditors will enter their deliberations and their findings in a special book.

**Article 117**

The scope and effects of the auditors' liability are determined by the rules of their mandate.

The auditors may be revoked only by the general assembly with the requested extraordinary assembly majority.

The provisions of Articles 43, 100, and 108 are also applicable to auditors.

## Section V

## Debentures Issue

**Article 118**

A joint-stock company may issue bearer or registered debentures for an amount not exceeding three-fourths of the capital paid and on hand in accordance with the latest approved balance sheet.

The nominal value of one share may not be under 100 lei.

All debentures of the same issue must be equal in value and confer their owners equal rights.

**Article 119**

In order to issue debentures by public subscription the executive officers will publish an issue prospectus, approved by the court in whose jurisdiction the company has its headquarters, which will show:

a) Name, purpose, head office, and duration of the company;

b) Registered capital and reserves;

c) Date of the deed of incorporation, changes made in it, and date on which the changes were published;

d) The situation of the company assets according to the latest approved balance sheet;

e) Categories of shares issued by the company;

f) Overall amount of the debentures to be issued and of those issued before, method of redemption, nominal value of debentures, interest rate, and whether they are registered or bearer;

g) Encumbrances on company buildings;

h) The date of publication of the general meeting decision by which the issue was approved.

**Article 120**

The debentures subscription will be made on copies of the issue prospectus.

The value of the subscribed debentures mut be paid in full.

The debentures certificates must show the information stipulated in Article 119, the serial number, and a table of capital and interest payments.

The certificates will be signed as per Article 62, Paragraph 4.

**Article 121**

Debentures holders may meet in general assembly to discuss their interests.

The meeting will be convened at the expense of the issuing company, at the request of a number of holders representing one-fourth of the unredeemed certificates issued or, after a representative has been appointed for the debentures holders, at the latter's request.

The provisions envisaged for the shareholders' regular meeting are also applicable to debentures holders regarding the forms, conditions, schedules, certificate deposit, and voting.

The issuing company may not participate in the deliberations of the debentures holders' meeting on the basis of its debentures.

The debenture holders may be represented by agents who are not the same persons as the executive officers, auditors, or company employees.

**Article 122**

The legally formed assembly of debenture holders may:

a) Appoint an agent to represent the debenture holders and one or more acting agents empowered to represent

them vis-a-vis the company and before the law, and set a fee for them; they may not participate in the management of the company, but they may attend its general meetings;

b) Carry out all the overseeing functions and defend their joint interests, or empower an agent to do so;

c) Set up a fund, which may be taken out of the interest due the debentures holders, to cover expenses involved in defending their rights, and establish rules for the management of this fund;

d) Oppose any change in the company statute or the loan conditions apt to affect the rights of the debenture holders;

c) Rule on the issue of additional debentures.

The assembly's decisions will be reported to the company within at the most three days of being adopted.

**Article 123**

For the discussions stipulated in Article 122, Subparagraphs a, b, and c, to be valid, the decision must be taken by a majority representing at least one-third of the certificates issued and not redeemed; other cases require the presence at the meeting of holders representing at least two-thirds of the unredeemed certificates and the favorble vote of at least four-fifths of the debentures represented at the meeting.

**Article 124**

The decisions made by the debenture holders' assembly are also binding to holders who did not attend the meeting or who voted against them.

The decisions of the debenture holders' assembly may be contested in court by holders who did not attend the meeting or who voted against and requested the fact inserted in the minutes of the meeting, within the term and with the effects shown in Articles 90 and 91, at the court in whose jurisdiction the company has its head office.

**Article 125**

The debenture holders' court action against the company is not permissible if it has the same objective as a suit filed by the representatives of the debenture holders or if it runs counter to a decision by the debenture holders' assembly.

**Article 126**

Debentures will be redeemed by the issuing company when they come due.

Before the redemption date, debentures of the same issue and value may be redeemed by drawing, at a value higher than their nominal value, as established by the company and publicly announced at least 15 days before the drawing.

## Section VI

## Company Books and Balance Sheet

**Article 127**

Aside from the bookkeeping specified by the law, joint-stock companies must also keep:

a) A register of shareholders, showing first and last name, firm name, residence or head office, as the case may be, of holders of registered shares, and payments made on account for the shares;

b) A book for general meetings sessions and discussions;

c) A book with the meetings and discussions of the managing board;

d) A book with the meetings and discussions of the managing committee;

e) A book with the discussions and findings of the auditors in the exercise of their duties;

f) A register of debentures showing the total debentures issued and those redeemed, as well as the first and last name, firm name, and address or head office of the holders in the case of registered debentures.

The books mentioned under Subparagraphs a, b, c, and f will be kept by the managing board; that under Subparagraph d by the managing committee, and that under Subparagraph e by the auditors.

**Article 128**

The executive officers are obligated to put the books mentioned in Article 127, Subparagraphs a and b at the disposal of the shareholders and to produce extracts from them at the request and expense of the shareholders.

Similarly, they are obligated to put the book mentioned under Article 127, Subparagraph f at the disposal of the debenture holders, under the same conditions.

**Article 129**

The executive officers must present to the auditors the balance sheet of the previous accounting period and the profit and loss account, accompanied by their report and background documents, at least one month before the date of the general meeting.

**Article 130**

The balance sheet and the profit and loss account will be made out in accordance with the law.

**Article 131**

Every year at least 5 percent of the company's earnings will go to the reserve fund until the fund reaches at least one-fifth of the registered capital.

If the reserve fund dropped after being formed, for whatever reason, it will be replenished in compliance with Paragraph 1.

Similarly, even if the reserve fund has reached the amount envisaged in Paragraph 1, any surplus obtained from sale of shares higher than their nominal value will be deposited in that fund, unless it is used to pay for issue expenditures or earmarked for amortization.

The founding members, executive officers, and company personnel will share in the profits if so envisaged in the deed of incorporation or statute or, in the absence of such provisions, if so approved by the extraordinary general assembly.

In every case the sharing conditions will be decided by the general assembly for each accounting period.

**Article 132**

A copy of the balance sheet, together with the reports of the executive officers and auditors, will remain at the company head office and at the branches and subsidiaries throughout the 15 days preceeding the general meeting, where the shareholders can examine them.

The shareholders may request, at their expense, copies of the balance sheet, the managing board report, and the auditors' report to the general meeting.

**Article 133**

Within 15 days of the date of the general meeting the executive officers are obligated to file a copy of the balance sheet, accompanied by the profit and loss account, with the commercial register and the fiscal office, to which they will annex their report, the auditors' report, and the general meeting report.

The balance sheet and the profit and loss account will be published in the MONITORUL OFICIAL.

**Article 134**

Approval of the balance sheet by the general assembly does not preempt liability action against executive officers, directors, or auditors.

## Chapter V

## Mixed-Liability Joint-Stock Companies

**Article 135**

Mixed-liability joint-stock companies are governed by the provisions regarding joint-stock companies, except for the provisions of the present chapter.

**Article 136**

The company will be managed by one or several active partners.

The provisions of Articles 50-53 will be applicable to the active partners, and those of Articles 59 and 60 to the silent partners.

**Article 137**

In a mixed-liability joint-stock company the executive officers may be revoked by the general shareholders assembly upon a decision taken with the majority required of extraordinary assemblies.

With the same majority and in compliance with Article 94 the general meeting will elect another person to replace a revoked or deceased executive officer or one who ended his term in office.

The appointment must be approved by the other executive officers, too, if there are several.

The new executive officer becomes an active associate.

The revoked executive officer continues to bear unlimited liability toward third parties for the obligations contracted during his term, but he may take retroactive action against the company.

**Article 138**

Active partners who serve as executives officers may not participate in the general meeting deliberations dealing with the election of auditors, even if they own stock in the company.

## Chapter VI

## Limited-Liability Companies

**Article 139**

The associates' decisions are made in general assembly.

The statute may rule that voting can also be exercised by correspondence.

**Article 140**

The assembly decides with an absolute majority of the associates and company capital.

Decisions dealing with changes in the deed of incorporation or statute require the vote of all the associates, barring legal provisions to the contrary.

**Article 141**

Each share carries one vote.

An associate may not exercise his voting rights in the deliberations of shareholders meetings dealing with his investment in kind or with legal documents signed between him and the company.

If the legally formed meeting cannot make a valid decision because it does not have the required majority, the reconvened assembly can decide the agenda whatever the number of associates and the capital share represented by the associates present.

**Article 142**

The associates' assembly has the following main obligations:

a) To approve the balance sheet and decide the distribution of net profits;

b) Appoint executive officers and auditors, revoke them, and discharge them from their activities;

c) Decide to sue executive officers and auditors for damages caused to the company, and designate the person empowered to act in the matter;

d) Modify the statute.

In the latest case, if the deed of incorporation or the statute gives an associate the right to pull out if he does not agree with the changes made in them, the provisions of Articles 167 and 168 will be applicable.

**Article 143**

The executive officers are obligated to convene the meeting of associates at the head office at least once a year or whenever necessary.

One or several associates representing at least one-fourth of the registered capital may request that the general meeting be convened, after showing the purpose of such a meeting.

The meeting will be convened in the form envisaged in the statute and, in the absence of any special provision, by registered letter, at least 10 days prior to the date set for the meeting; the agenda will be given.

**Article 144**

The provisions specified for joint-stock companies concerning the right to contest the decisions of the general assembly are also applicable to limited liability companies.

**Article 145**

The company will be managed by one or several executive officers, who may or may not be associates, appointed under the deed of incorporation or by the general assembly.

Without the permission of the associates' assembly the executive officers may not serve as executives in competing companies or companies with the same objective, nor can they engage in the same or a competing business on their own or on behalf of another natural or legal person, under penalty of being revoked and held liable for damages.

The provisions of Articles 45, 46, 47, and 49 are also applicable to limited liability companies.

**Article 146**

The executive officers must ensure that the company keep a register of associates, in which they will enter, according to case, the first and last name, business name, address or headquarters of each associate, his registered capital share, transfers of nominal shares, or any other changes concerning them.

The executive officers will be personally and jointly liable for any damage caused by a violation of the provisions of Paragraph 1.

The register may be inspected by associates and creditors.

**Article 147**

The statute may specify the election of one or several auditors by the associates' assembly.

If the number of associates exceeds 15, the appointment of auditors becomes obligatory.

The provisions specified for the auditors of joint-stock companies will be applicable to the auditors of limited liability companies.

In the absence of auditors, each one of the associates who does not serve as an executive officer will exercise the overseer rights wielded by associates in a general partnership.

**Article 148**

A limited liability company may not issue debentures.

**Article 149**

The company balance sheet will be kept in compliance with the provisions specified for joint-stock companies. It will be approved by the associates' assembly and filed by the executive officers within 15 days with the commercial register for the purpose of being entered in the register and published in MONITORUL OFICIAL.

The provisions specified for the reserve funds of joint-stock companies and those concerning drops in the registered capital are also applicable to limited liability companies.

**Article 150**

Nominal stock may be transferred among associates.

Transfers to persons outside the company is permitted only if approved by the associates representing at least three-fourths of the registered capital.

In the case of acquisition of nominal stock by inheritance, the provisions of Paragraph 2 do not apply unless otherwise specified in the deed of incorporation or

statute; in the latter case, the company is obligated to pay the heirs for the nominal stock, as per the latest approved balance sheet.

If the maximum legal number of associates is exceeded because of the number of heirs, the latter will be obligated to designate a number of holders not exceeding the legal maximum.

**Article 151**

Periodical investments in kind are not transferable without the agreement of the general meeting.

In the case of the death of a holder who pledged periodical contributions in kind, within two months the general assembly may pay the heirs for the services rendered, as per the latest approved balance sheet, if the company does not prefer to continue with the consenting heirs.

**Article 152**

Transfers of company assets must be entered in the commercial register and in the company's register of associates.

Transfers are valid toward third parties only from the time they were entered in the commercial register.

## TITLE IV

## Changing the Deed of Incorporation or the Company Statute

### Chapter I

### General Provisions

**Article 153**

The deed of incorporation or the statute may be changed by the associates in compliance with the provisions of the present law and the form and publication conditions specified for closing them.

**Article 154**

Privade creditors of the associates in a general partnership, a mixed-liability company, or a limited liability company can oppose the decision on extending the life of the company beyond the term established if they enjoy rights established by a prior executor title.

The opposition will be filed in court within at the most 15 days from the date of the publication of the decision.

The opposition suspends the effect of the company extension on the opponents.

When the opposition has been passed by a final decision the associates must decide, within one month of its pronouncement, whether to give up the extension or to exclude from the company the associate who is the opponent's debtor.

In the latter case, the rights due to the debtor associate will be calculated on the basis of the latest approved balance sheet.

### Chapter II

### Reducing or Increasing the Registered Capital

**Article 155**

The registered capital can be reduced only two months after the date on which the decision was published in MONITORUL OFICIAL.

The decision must observe the minimum legal capital required, when set by law, show the reasons for the reduction, and the method that will be used to carry it out.

Prior to the decision any company creditor may oppose it in court within the term specified in Paragraph 1.

The effect of the opposition is to suspend the implementation of the decision until it has been withdrawn or rejected by a final court ruling.

**Article 156**

When the company has issued debentures, the capital may not be reduced by refunding the shareholders out of the amounts reimbursed for the shares, except in proportion with the value of redeemed debentures.

**Article 157**

The decision of the extraordinary meeting to increase the registered capital will be published in MONITORUL OFICIAL; at least one month will be granted to exercise preference options, beginning on the date of publication.

**Article 158**

A joint-stock company can increase its registered capital in compliance with the provisions specified in the company incorporation.

In the case of public subscription, the issue prospectus, bearing the notarized signatures of two executive officers, must be filed with the commercial register in order to fulfill the formalities stipulated in Article 10, and must show:

a) The date and registration number of the company in the commercial register;

b) Name and head office of the company;

c) The registered capital subscribed and paid;

d) The first and last names of the executive officers and auditors and their address;

e) The most recent approved balance sheet, the profit and loss account, and the auditors' report;

f) Dividends paid in the last five years or since the incorporation if the company is less than five years old;

g) Debentures issued by the company;

h) The decision of the general assembly concerning the new shares issue, their total value, their number and nominal value, kind of shares, relations concerning investments in kind and other than cash and the preferential options they carry, and the date as of which dividends will be paid.

The subscriber can decree null and avoid any issue prospectus that does not include all the above data, if he has not exercised his shareholder rights and obligations in any manner.

**Article 159**

If the registered capial is increased, the executive officers are jointly responsible for the correctness of the statements made in the issue prospectus, in company publications, or in the applications filed with the commercial register in order to increase the capital.

**Article 160**

If the registered capital is increased by means of investments in kind, the extraordinary assembly that made the decision to that effect will appoint one or several appraisers in accordance with Articles 18 and 23.

After the appraisal report has been filed, the reconvened extraordinary assembly may decide to increase the capital in line with the appraisers' conclusions. The meeting's decision must include a description of the investments in kind, the names of the persons who made them, and the number of shares that will be issued in exchange.

**Article 161**

The shares issued in order to increase the capital will be offered for subscription first to the other shareholders in proportion to the number of shares they hold and with the obligation that they exercise their option within the term decided by the general assembly, unless otherwise stipulated in the deed of incorporation or the statute. After the expiration of that date the shares may be offered for public subscription.

**Article 162**

The assembly's decision to increase the capital takes effect only if it has been implemented within one year of being made.

**Article 163**

When the capital is increased, the provisions of Article 64, Paragraph 2 and Article 66 will be applicable.

**Article 164**

Limited liability companies will increase their registered capital in compliance with the provisions concerning their incorporation.

## TITLE V

### Expelling Associates

**Article 165**

The following may be expelled from general partnerships or from mixed-liability or limited liability companies:

a) An associate who, being in arrears, fails to deliver the contribution he pledged;

b) An associate with unlimited liability declared bankrupt or who has become legally incapacitated;

c) An associate with unlimited liability who wrongly interferes in management or violates the provisions of Articles 50 and 52;

d) An associate who also serves as an executive officers who commits fraud to the detriment of the company, or who abuses the company signature or capital for his own benefit or that of others.

The provisions of this article are also applicable to active partners in joint-stock mixed-liability companies.

**Article 166**

The expulsion will be pronounced by a court ruling at the request of the company or of any of the associates.

When the expulsion is requested by an associate, the company and the defendant will be served summons.

The final expulsion decision will be filed, within 15 days, with the commercial register to be entered, and the provisions of the decision will be published in MONITORUL OFICIAL at the request of the company.

**Article 167**

The expelled associate is liable for losses and entitled to profits up to the day of his expulsion, but he may not request their liquidation until they are distributed in keeping with the provisions of the deed of incorporation.

The expelled associate is not entitled to a proportional share of the company assets, only to its cash equivalent.

**Article 168**

The expelled associate will continue to be liable toward third parties for the transactions conducted by the company up to the date on which the expulsion decision became final.

Regarding current business at the time of the expulsion, the associate is obligated to bear the consequences and may not withdraw his share before the business in question is concluded.

## TITLE VI

## Dissolving Companies and Company Mergers

### Chapter I

### Dissolving Companies

**Article 169**

The following will result in the dissolution of the company and will entitle each associate to request its liquidation:

a) The term established for the duration of the company has lapsed;

b) The objective of the company cannot be achieved or has been achieved;

c) A decision by the general assembly to that effect;

d) Bankruptcy;

e) Reduction of the registered capital as per the specified in Article 110, or when the registered capital drops under the legal minimum if the associates do not decide to replenish it;

f) Joint-stock companies will also be dissolved when the number of shareholders drops under five, if more than six months have lapsed since it dropped without being replenished.

The dissolution of business companies must be entered in the commercial register and published in MONITORUL OFICIAL, except for the case specified under Subparagraph a.

The entry and the publication will be done in keeping with Article 153 when the dissolution was decided by the general meeting, and within 15 days of the finalization of the ruling when the dissolution was decided in court.

**Article 170**

General partnerships and limited liability companies will be dissolved in the wake of bankruptcy, incapacity, expulsion, withdrawal, or death of one of the associates when the above causes left only one associate and there is no clause providing for continuation with the heirs, with the exception of Articles 210 and 211.

In a mixed-liability company or joint-stock mixed-liability company with only one active partner, his death will incur the dissolution of the company in the absence of a clause providing for continuation with the heirs; the company will also be dissolved in the wake of the incapacitation, expulsion, withdrawal, or bankruptcy of the sole active partner.

In limited liability companies with only one silent partner, his death will incur the dissolution of the company in the absence of a clause of continuation with the heirs. The company will also be dissolved in the wake of the withdrawal, expulsion, or bankruptcy of the sole silent partner.

**Article 171**

In general partnerships, if one associate dies and there is no agreement to the contrary, the company must pay up the share to which the heirs are entitled according to the most recent approved balance sheet, within three months of the associate's death notice if the remaining associates do not opt for continuing the company with the consenting heirs.

The provisions of Paragraph 1 are also applicable to mixed-liability companies if one of the active partners dies, unless his heirs choose to remain in the company as active partners.

The heirs will continue to be liable as specified in Article 167 until the publication of the changes.

**Article 172**

Once the company has been dissolved, the executive officers must begin the liquidation procedures unless otherwise specified by the law, the deed of incorporation, the statute, the general assembly, or the court that ruled the dissolution.

From the moment of dissolution the executive officers may not undertake new transactions; if they do so, they will be personally and jointly liable for the transactions conducted.

The interdiction specified in Paragraph 2 will begin on the day on which the term established for the company has expired or on which the dissolution was decided by the general meeting or decreed by court ruling.

**Article 173**

The dissolution of the company before the expiration of the term set for its duration will take effect toward third parties only after 30 days of its publication in MONITORUL OFICIAL.

Third parties may oppose the dissolution of the company within the term given in Paragraph 1; the opposition will suspend the implementation of the dissolution decisions in keeping with Article 155, Paragraph 4.

### Chapter II

### Company Mergers

**Article 174**

A merger of several companies will be decided by each company separately.

Each of the companies that decides to merge must fulfill the formalities specified in Article 153.

The balance sheet closed for the purpose by each company will be deposited, along with the application to

have the merger decision entered, with the commercial register, in order to be entered in the register.

A company that ceases to exist in the wake of a merger will deposit a statement about the manner in which it has decided to sink its debt, for the purpose of being entered in the commercial register.

**Article 175**

The merger cannot take effect until three months after its publication in MONITORUL OFICIAL, with the exception of cases in which payment of all the registered liabilities is not justified, or the equivalent amount of money does not need to be deposited at the Loan and Saving Bank or the fiscal office, or when all the creditors have given their agreement.

A certificate attesting to the above deposition must be published in compliance with Article 153.

Within the term specified in Paragraph 1 any creditor of the merging companies may oppose it in court.

The opposition will suspend the implementation of the merger until the final court decision.

If the term envisaged in Paragraph 1 has expired without any opposition being filed, the merger will be carried out and the continuing company or the company resulting from the merger will enjoy the rights and assume the liabilities of the companies that ceased to operate.

## TITLE VII

## Company Liquidation

### Chapter I

### General Provisions

**Article 176**

The following rules are obligatory for liquidating a company and distributing its assets, even if the deed of incorporation or statute envisage procedures for the purpose:

a) The executive officers will continue to discharge their duties until the receivers get in, with the exception of those specified in Article 172;

b) The deed of receivership or the court ruling serving in its stead and any other subsequent documents that may introduce changes in the receivers must be filed by the liquidators with the commercial registry in order to be immediately entered and published in MONITORUL OFICIAL.

Only after the formalities given in Paragraph 1 have been fulfilled will the receivers put their signature in the commercial register and go into action.

Once the notice has been published as per Paragraph 2, no business may be carried out for the company or against it except in the name of or against the receivers.

Aside from the provisions of the present title, the rules established in the deed of incorporation, the statute, and the law will be applicable to dissolve companies to the extent that they are not incompatible with the liquidation.

All the documents flowing from the company must show that it is in liquidation.

**Article 177**

The official receivers bear the same responsibilities as the executive officers.

Immediately after being appointed, they are obligated to do an inventory, together with the company executives, and to close a balance sheet showing the precise situation of the company's assets and liabilities, and to sign them.

The receivers are obligated to receive and keep the assets of the company, the ledgers entrusted to them by the executive officers, and the company deeds. Similarly, they will keep records of all the liquidation operations in chronological order.

The receivers will discharge their duties under the oversight of the auditors.

**Article 178**

Aside from the powers conferred by the associates and with the same majority required for their appointment, the receivers can:

a) Appear in court and act in the interests of the liquidation;

b) Conduct and wind up commercial transactions concerning the liquidation;

c) Sell at public auction the company's buildings and any chattels; assets may not be sold as a block;

d) Conduct transactions;

e) Pay and cash debts for the company, even when the debtor is bankrupt, against receit;

f) Exchange drafts [sa contracteze obligatii cambiale], take out loans other than mortages, and carry out any other necessary actions.

However, in the absence of special provisions in the deed of incorporation, the statute, or their appointment, they cannot mortgage company assets unless they have a court authorization and the agreement of the auditors.

Receivers who undertake new business operations not relevant to the liquidation will be personally and jointly liable for their transaction.

**Article 179**

The receivers may not pay to the associates any sums on account of the shares due to them from the liquidation before paying off the company creditors.

The associates, however, may request that the amounts withheld be deposited in compliance with Article 175, Paragraph 1, and that the shares or company assets be allocated even during the liquidation if, aside from what is necessary to cover all of the company 's mature or due liabilities, at least 10 percent of their amount remains available.

Company creditors may appeal the receivers' decision in keeping with Article 154.

**Article 180**

The receivers who can prove by means of the balance sheet that the company's funds are insufficient to cover its current liabilities, must request the necessary amounts from the associates with unlimited liability or from those who did not make their payments in full, if the latter are obligated to do so in accordance with the form of the company, or if they owe the company money for defaulting on payments they owed as associates.

**Article 181**

The receivers who have paid off company debts with their own money cannot claim greater rights against the company than those of the paid creditors.

**Article 182**

Company creditors are entitled to claim from the receivers the shares flowing from mature debts up to the amount of the assets owned by the company; only after that can they file claims against the associates for the amounts due on the value of shares subscribed or on the value of their contributions to the registered capital.

**Article 183**

After the completion of the liquidation, the receivers must request that the company be deleted from the commercial register.

The liquidation does not exempt the associates and does not preempt the declaration of the company as bankrupt.

**Article 184**

After the accounts have been approved and the distribution completed, the ledgers and deeds of general partnerships, mixed-liability, or limited liability companies not needed by any of the associates will be kept by the associate designated by the majority.

In the case of joint-stock and mixed-liability companies, they will be deposited with the commercial registry, where any interested party may examine them pending court permission.

All company books will be kept for a period of five years.

## Chapter II

## Liquidating General Partnerships and Mixed-Liability and Limited-Liability Companies

**Article 185**

The receivers for general partnerships, mixed-liability, or limited liability companies will be appointed by all the associates, unless otherwise specified in the deed of incorporation.

If a majority cannot be secured, the receivers will be appointed by the court at the request of any of the associates or executive officers after all the associates and executive officers have been heard.

The court ruling may be appealed by the associates or executive officers within 15 days of being pronounced.

**Article 186**

After the liquidation of a general partnership or mixed- or limited liability company has been completed, the receivers must draft a liquidation balance sheet and make recommendations on the distribution of the assets among the associates.

A dissatisfied associate may appeal the decision in court within 15 days of being notified of the balance sheet and planned distribution.

In the deliberation of the claim, matters concerning the liquidation will be separated from those concerning the distribution, in which the receivers may not be involved.

After the expiration of the term specified in Paragraph 2, or after the ruling specified in Paragraph 3 has become final, the balance sheet and the distribution are viewed as approved and the receivers are discharged.

## Chapter III

## Liquidation of Joint-Stock and Mixed-Liability Public Companies

**Article 187**

Receivers for joint-stock and mixed-liability public companies will be appointed by the general assembly, which will decide on the liquidation, unless otherwise specified in the deed of incorporation or statute.

The general assembly will pass the decision with the same majority required for modifying the statute.

If a majority has not been secured, the receivers will be appointed by the court at the request of any of the executive officers or associates, summons being sent to the company and those who requested it. The ruling in question may be appealed within 15 days of being pronounced.

**Article 188**

The executive officers will present to the receivers a report on their administration during the period since the last approved balance sheet and until the beginning of the liquidation.

The receivers are entitled to approve the report and to raise or sustain possible questions regarding it.

**Article 189**

When one or several executive officers are appointed receivers, the executive officers' management report will be filed with the commercial registry and published in MONITORUL OFICIAL together with the final liquidation balance sheet.

When the period of managements exceeds one fiscal year, the report must be annexed to the first balance sheet, which the receivers will present to the general assembly.

Within 15 days of the publication any shareholder may contest it it in court.

All the contestations filed will be merged and resolved in one sentence.

Any shareholder is entitled to pursue court action, and the ruling will also be valid for the shareholders who did not.

**Article 190**

If the liquidation extends beyond the fiscal year, the receivers are obligated to draft the annual balance sheet in compliance with the legal provisions, the deed of incorporation, and the statute.

**Article 191**

After the completion of the liquidation the receivers will draft a final balance sheet showing the portion due for each share from the distribution of the company assets.

The balance sheet, signed by the receivers and accompanied by the auditors' report, will be entered in the commercial register and published in MONITORUL OFICIAL.

Any shareholder may file an appeal in keeping with Article 189.

**Article 192**

If the term specified in Article 189, Paragraph 3 has expired without any appeal being filed, the balance sheet is viewed as approved by all the shareholders and the receivers are discharged pending the distribution of the company assets.

Independently of the term expiration, the receipt for the last distribution will serve as endorsement of the account and each shareholder's allocation.

**Article 193**

The sums due to the shareholders which were not cashed within two months of the publication of the balance sheet will be deposited as per Article 175, Paragraph 1, showing the shareholder's first and last name, or the serial numbers for bearer shares.

The payment will be made to the person in question or to the share bearer, and the certificate will be kept.

## TITLE VIII

### Infractions Regarding Business Companies

**Article 194**

The following will be punished by imprisonment of from three months to two years or fines between 20,000 and 100,000 lei:

1. Founding members, executive officers, and directors who knowingly give false data or who deliberately conceal some or all information about the company incorporation or its economic situation in the prospectus, reports, and communications addressed to the public or the general meeting, and those who violated the provisions of Article 70;

2. Executive officers and directors who cashed or paid out dividends, in any form, out of fictitious profits or profits not for distribution, without a balance sheet, or in violation of the balance sheet statements;

3. Executive officers, directors, and other company personnel who, in order to make a profit for themselves or others at the expense of the company, spread false information or used other fraudulent means designed to raise or reduce the value of company stock or debentures, or of other titles belonging to it;

4. Executive officers and directors who, in order to secure a profit for themselves or others at the expense of the company, purchase stock in other companies on behalf of their company at a price they know to be higher than their actual value, or sell their stock in the company at prices they know to be patently lower than their actual value;

5. Executive officers and directors who deliberately use company assets or credit for purposes harmful to its interests or in their own interests, or in favor of another company in which they have a direct or indirect interest.

**Article 195**

Punishments of one month to one year imprisonment or fines of 10,000 to 75,000 lei will be given to executive officers and directors who:

1. Wield unsubscribed stock or shares not distributed to the shareholders in general meetings;

2. Issue debentures in violation of the legal provisions;

3. Issue shares of a lower value than their legal value or at a lower price than their nominal value, or issue new shares before the previous shares have been paid in full;

4. Place new issue shares at prices other than those established by the general meeting;

5. Give out loans or downpayments on company shares;

6. Knowingly present to the shareholders an incorrect balance sheet or falsely report on the situation of the company for the purpose of concealing the real situation.

**Article 196**

Fines of 5,000 to 50,000 lei will be levied on executive officers and directors who:

1. Acquire company shares on its behalf in cases banned by the law;

2. Carry out general assembly decisions concerning changing the form of the company, its merger, or reducing the registered capital before the expiration of the legal terms;

3. Carry out general assembly decisions on reducing the registered capital without securing the payments owed by the associates, or carry out a decision that exempts them from subsequent payments;

4. Hand over shares to the purchaser before term or hand over totally or partially disencumbered shares, other than in the cases envisaged by the law, or transfer bearer shares not paid in full;

5. Refuse to provide the appraisers specified in Articles 10 and 23 with the required acts and documents, or in any way prevent them from doing their job;

6. Do not observe the legal provisions concerning the cancellation of unpaid shares.

The same fines will be applied to executive officers who unjustifiably fail to convene the general meeting according to the law.

**Article 197**

Fines of 1,000 to 5,000 lei will be applied to:

1. Executive officers who do not observe the provisions of Article 131;

2. Executive officers and directors who issue shares and debentures without making the legal specifications.

**Article 198**

Executive officers who violate the provisions of Articles 103 and 141, Paragraph 2, even through intermediaries or doctored documents, will be punished by fines from 10,000 to 50,000 lei;

The same punishment will be applied to associates who violate the provisions of Articles 85 and 141, Paragraph 2. The associate in question will be shielded from punishment if a majority would have been secured without his vote.

**Article 199**

Punishments of six months to one year imprisonment or fines of 10,000 to 100,000 lei will be applied to executive officers and directors who borrow, in whatever form, directly or through an intermediary, from the company in their management or one controlled by it or by which it is controlled, or who secure guarantees for their own loans from such companies.

**Article 200**

Punishments of three months to one year imprisonment or fines of 10,000 to 100,000 lei will be applied to the executive officers of limited liability companies who:

1. Initiated business on behalf of the company without the registered capital having been paid in full;

2. Issued negotiable stock representing company assets.

**Article 201**

Auditors who do not convene the general meetings in the cases in which they are legally obligated to do so, will be punished by one month to one year imprisonment or fines of 5,000 to 50,000 lei.

The punishments envisaged under Article 194, Paragraph 1, and Article 199 are also applicable to auditors.

**Article 202**

The provisions of Articles 194 to 200 concerning executive officers are also applicable to receivers, to the extent to which they refer to duties inherent to their job.

Similarly, the punishment specified in Article 197 is also applicable to receivers who do not show in the documents flowing from the company that the company is in liquidation.

**Article 203**

Persons who transferred their shares or debentures to others in order to be used to form a majority to the detriment of the other shareholders will be punished by up to one month imprisonment or a fine of 1,000 to 20,000 lei.

The same punishment will be applied to persons who accepted to vote in meetings, in the cases specified under Paragraph 1, as owners of shares or debentures that do not really belong to them.

**Article 204**

Punishments of up to one month imprisonment or fines of 1,000 to 20,000 lei will be applied to persons who commit the following, even if their vote did not influence the decision:

1. Illegaly pledge to vote in a certain way in general meetings or to abstain from voting in exchange for material gain;

2. Illegally persuade a shareholder or debenture holder to cast a certain vote in the general meeting or to abstain from voting, in exchange for material gain.

**Article 205**

Punishments of up to one year imprisonment or fines of 10,000 to 100,000 lei will be applied to persons who knowingly accepted or continued to serve as auditors in violation of the provisions of Article 112, or persons who accepted to serve as appraisers in violation of Article 19.

General assembly decisions made on the basis of the report of an auditor or appraiser appointed in violation to Articles 19, 23, and 112 will be legally void because of the violation of the provisions specified in those articles.

**Article 206**

Punishments of up to one year imprisonment or fines of 10,000 to 100,000 lei will be applied to the executive officers, directors, and auditors who discharge their duties in violation of the provisions of this law concerning incompatibility.

**Article 207**

unishments of one to five years imprisonment or fines of 100,000 to 1,000,000 lei will be applied, in addition to their liability for the damages caused by their dealings to the Romanian state and third parties, to those who will carry out transactions in favor of and at the expense of companies incorporated in other countries, in the cases in which the legal conditions for their operation in Romania were not fulfilled.

**Article 208**

Punishments of two to seven years imprisonment will be applied to persons guilty of fraudulous bankruptcy consisting of one of the following actions: falsification, removal, or destruction of company books or concealing some of the company's assets; claiming nonexisting debts or showing sums not owed in the company ledgers, in other documents, or in the balance sheet; defrauding creditors of a considerable portion of the assets.

**Article 209**

Receivers who make payments to associates in violation of Article 179 will be punished by fines of between 10,000 to 100,000 lei.

## TITLE IX

### Final and Temporary Provisions

**Article 210**

In the case in which in a limited liability company the registered assets belong to a single person, the latter, as sole associate, carries the rights and liabilities that, in keeping with the present law, belong to the general assembly.

If the sole associate is also the administrator, he will also fulfill the duties envisaged by the law for that post.

If the company is established by a single associate, the value of the investment in kind will be determined in court on the basis of a professional appraisal.

In that case, only a statute will be drafted.

**Article 211**

A natural or legal person may not be a single associate in more than one limited liability company.

A limited liability company may not have as the single associate another limited liability company made up of a single person.

Should the provisions of Paragraphs 1 and 2 be violated, any interested party and the state may request the legal dissolution of such a company through the Finance Ministry.

On the basis of the dissolution decision, the liquidation will be carried out according to the conditions set by the present law for limited liability companies.

**Article 212**

At joint-stock and limited liability companies whose entire capital belongs to the state, the duties of the shareholders general meeting will be carried out by a board of state representatives, formed and appointed in the conditions specified by the law for the managing board of autonomous administrations.

The board of state representatives will operate in compliance with the specific provisions specified in the statute approved at the time of incorporation.

The managing board of companies in which the state is sole shareholder will be appointed in keeping with the conditions of the present law and with the agreement of the relevant ministry.

The auditors of the companies described in Paragraph 1 will be representatives of the Finance Ministry.

**Article 213**

The personnel of business companies will be employed on the basis of a labor contract in compliance with the provisions of the Labor Code and the social security system of state personnel. Salaries will be freely agreed upon by the sides, but the minimum legal pay must be observed.

Business companies in which the state is not the sole shareholder can also employ personnel of other autonomous companies or administrations or of cooperative units, as well as cooperative members, who will carry on

their activities outside the working schedule of the company, administration, or unit who is their primary employer. Similarly, at such companies age pensioners or persons with a third degree incapacitation may receive their full pension in addition to the salary.

**Article 214**

If the sole associate of a limited liability company is also the manager, he may receive a pension like social security, provided he paid his contribution to social security and for supplementary pension.

**Article 215**

Business companies, with the exception of those where the state holds the entire capital and those with foreign participation, are entitled to dispose of 50 percent of their net earnings in foreign currency, while the rest is to be exchanged into lei at the Romanian Foreign Trade Bank at the rate of exchange in effect on the date of the transaction.

For the purpose of the present article, net earnings refer to earnings from export operations after deducting imports, commissions, levies and taxes, and other foreign currency expenses involved in the operations in question.

**Article 216**

The incorporation of business companies with foreign participation, in association with Romanian natural or legal persons, or with solely foreign capital, must comply with the provisions of the present law and the law on foreign capital investment in Romania, and must be registered with the Romanian Agency for the Promotion of Foreign Investments and Economic Aid [RAPFIEA].

Requests for foreign investments apt to affect major interests of the national economy must be endorsed by the government at the recommendation of the RAPFIEA within 30 days of filing the application.

If within the terms set in Paragraph 2 the investor fails to receive any communication, the investment may be carried out according to the conditions specified in the investor's application.

**Article 217**

Out of the annual profits in lei due to the foreign party, a 8- to 15-percent quota of its contribution to the registered capital paid may be transferred abroad in convertible currency by means of a money exchange carried out by the Romanian Foreign Trade Bank or other authorized banks. The quota will be set by the RAPFIEA.

**Article 218**

The activities that may not be handled by a business company will be established by the government within 10 days of the coming into force of the present law.

**Article 219**

A fixed 1,000 lei fee will be paid to legalize the deed of incorporation and statute regardless of the size of the registered capital; in the case of business companies with foreign capital participation, the fee will be the equivalent of the above amount in U.S. dollars at the exchange rate prevailing at the date of the transaction.

**Article 220**

For the purpose of the present law, the Bucharest Municipality is the same as the county.

**Article 221**

The present law will go into force 30 days after its publication in MONITORUL OFICIAL.

**Article 222**

Small enterprises and profit associations which are legal persons and were established on the basis of Decree No. 54/1990 concerning the organization and operation of entrepreneurial economic activities, can continue their activities if within six months of the enactment of the present law they reorganize in one of the company forms specified in the present law.

Business companies formed by reorganization in keeping with Paragraph 1 are the legal successors of the small enterprises or profit associations from which they stemmed.

**Article 223**

The provisions of the present law will be supplemented by the provisions of the Commercial Code.

**Article 224**

Companies with foreign participation established prior to the date of enactment of the present law can continue operating in accordance with their deed of incorporation which was legally approved.

**Article 225**

On the date on which the present law goes into effect, the following will be abrogated: the provisions of Articles 77-220 and 236 of the Commercial Code; the provisions concerning small enterprises and profit associations which are legal persons, contained in Decree Law No. 54/1990 on the organization and operation of entrepreneurial economic activities; Decree No. 424/1972 concerning the establishment and operation of mixed associations in Romania, with the exception of Article 15, Article 28, Paragraph 1, Article 33, and Article 25, Paragraphs 2 and 3; Decree No. 96/1990 on measures to attract foreign capital investment in Romania, with the exception of Article 4, Paragraph 2, Article 5, Article 10, Article 12, Paragraph 1, and Article 13; Article 6 of Law No. 3/1972 on domestic trade activities, and any other provisions to the contrary.

This law was passed by the Senate at its 5 November 1990 session.

President of the Senate
Academician Alexandru Birladeanu

This law was passed by the Chamber of Deputies at its 5 November 1990 session.

President of the Chamber of Deputies
Dan Martian

On the basis of Article 82, Subparagraph m of Decree No. 92-1990 for the election of the Parliament and president of Romania, we promulgate the law on business companies and order its publication in Romania's MONITORUL OFICIAL.

President of Romania
Ion Iliescu

Bucharest, 16 November 1990
No. 31

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